

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

TERRY LYNN KING,)	
)	
Plaintiff,)	<u>CAPITAL CASE</u>
)	
v.)	Case No. 3:18-cv-01234
)	
LISA HELTON, et al.,)	JUDGE CAMPBELL
)	
Defendants.)	

DONALD MIDDLEBROOKS,)	
)	
Plaintiff,)	<u>CAPITAL CASE</u>
)	
v.)	Case No. 3:19-cv-01139
)	
LISA HELTON, et al.,)	JUDGE CAMPBELL
)	
Defendants.)	

**DEFENDANTS' NOTICE OF COMPLETION OF THE INDEPENDENT
INVESTIGATION OF THE LETHAL INJECTION PROCESS AND UNOPPOSED¹
MOTION TO EXTEND STAY OF THE PROCEEDINGS**

In compliance with this Court's order of May 10, 2022 (D.E. 221) Defendants notify the Court that the independent investigation was completed as of December 13, 2022, and, for the reasons explained in more detail in their simultaneously filed memorandum of law in support of

¹ Defendants have conferred with all parties prior to this filing. The relief requested is unopposed; however, Defendants understand that Plaintiffs intend to file a response.

their motion, Defendants move the Court to extend the stay of proceeding currently in place. Plaintiffs do not oppose this motion.

On May 10, 2022, this Court entered an order staying the proceedings in this case pending the outcome of the independent investigation into the lethal injection process in Tennessee. (D.E. 221). This Court further ordered that, within 30 days of completion of the investigation, Defendants shall file a notice with the Court, move to reopen the cases, and set a revised scheduling order. (*Id.*)

Defendants hereby notify the Court that the independent investigation has been completed with the issuance of a report on December 13, 2022. Following the issuance of the report, on December 28, Governor Bill Lee directed that certain proactive steps be taken. Specifically, Governor Lee explained that staffing changes of the leadership at TDOC will be made, including the hiring of a new commissioner. The new leadership will revise the lethal injection protocol and provide training on that protocol.

In light of the findings of the report and the directives of Governor Lee, Defendants and Plaintiffs have consulted and agree that reopening of the case and setting of a scheduling order would be premature at this time. The changes necessitated by the report and the Governor's directives will likely affect the scope of Plaintiffs' complaints and undoubtedly will affect the course the proceedings before this Court; since, most notably, the necessary development of the factual record is not feasible until these changes are complete.

Accordingly, based on the findings of the report and the directives of Governor Lee, Defendants move this Court to extend the stay of the proceedings until the completion of corrective actions called for by the report and the Governor's directives based on the report. Should the Court find it beneficial, Defendants can provide updates to the Court every 90 days, or as the Court

directs, for the purpose of informing the Court and Plaintiffs of the progress of the corrective steps being taken.

Respectfully submitted,

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s/ Dean S. Atyia

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CERTIFICATE OF SERVICE

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